



Docket No.: 10003507-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Kenneth W. SHRUM et al.

Serial No. 09/825,403

Group Art Unit: 2172

Confirmation No. 1629

Filed: April 3, 2001

Examiner: Hung Q. Pham

For: INTERNET SERVER SYSTEM TEST AND MEASUREMENT

PRELIMINARY RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This preliminary response is filed with a Request for Continued Examination (RCE), thereby reopening prosecution after the Notice of Appeal filed August 9, 2005. A Petition for a One-month extension of time is concurrently filed herewith, thereby extending the response due date to November 9, 2005.

With the filing of this Preliminary Response and the RCE Applicants further request that the Request For Entry Of Evidence Under 37 CFR §41.33(d)(1), filed September 27, 2005, similarly now be entered and considered.

As noted in the Request For Entry Of Evidence, the then submitted documents clarify the applicability of the relied upon references under 35 USC 102.

The documents include press releases from Agilent Technologies, Inc., from May, 2000, obtained from a current Internet "Google" search of "Firehunter e-commerce," as cached by "Google." One press release is in the Japanese Language, so a partial mechanical translation is attached to the same. In addition, two additional articles/reviews of the Firehunter/e-commerce product, described in the above press releases, are also included.

As noted, applicant's Firehunter/e-commerce product occurred after applicant's filing date of the corresponding provisional application. Further, the relied upon Concept Guide was the fourth edition, published in 2002, also after the above provisional application date.

Accordingly, the differing Firehunter/e-commerce material in the "Firehunter/L 3.0" reference are not proper references under 35 USC 102, thereby obviating the outstanding rejections.

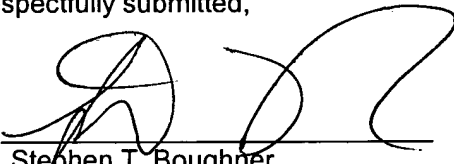
Reconsideration of the allowability of the pending claims, and entry of the aforementioned Request For Entry Of Evidence and corresponding documents is respectfully requested.

Date: _____

11/9/05

Respectfully submitted,

By: _____


Stephen T. Boughner
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